

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE EXECUTIVE AND REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
March 19, 2009**

- **CALL TO ORDER**

Mayor Schlum called the Executive Session to order at 5:30 p.m. in the Town Hall Fountain Conference Room.

EXECUTIVE SESSION AGENDA

- **CALL TO ORDER**
- **ROLL CALL** – Mayor Schlum

AGENDA ITEM #1 - ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: (I) PURSUANT TO ARIZ. REV. STAT. §38-431.03(A)(1), DISCUSSION OR CONSIDERATION OF EMPLOYMENT, ASSIGNMENT, APPOINTMENT, PROMOTION, DEMOTION, DISMISSAL, SALARIES, DISCIPLINING OR RESIGNATION OF A PUBLIC OFFICER, APPOINTEE OR EMPLOYEE OF ANY PUBLIC BODY, EXCEPT THAT, WITH THE EXCEPTION OF SALARY DISCUSSION, AN OFFICER, APPOINTEE OR EMPLOYEE MAY DEMAND THAT THE DISCUSSION OR CONSIDERATION OCCUR AT A PUBLIC MEETING. (SPECIFICALLY, REVIEWING APPLICATIONS RECEIVED FOR POSSIBLE SERVICE ON THE PLANNING AND ZONING COMMISSION.); AND (II) PURSUANT TO ARIZ. REV. STAT. §38-431.03(A)(4), DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION. (SPECIFICALLY, CONTRACT NEGOTIATIONS RELATED TO AN ENTERTAINMENT VENUE.)

Councilmember Leger **MOVED** to convene the Executive Session and Councilmember Dickey **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

AGENDA ITEM #2 – ADJOURNMENT.

Without objection, the Executive Session was adjourned by the Mayor at 6:20 p.m.

REGULAR SESSION

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Schlum called the Regular Session to order at 6:30 p.m. in the Fountain Hills Town Hall Council Chambers.

INVOCATION – Pastor Steve Bergeson, Shepherd of the Hills Lutheran Church

ROLL CALL – Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Leger, Vice Mayor Archambault and Councilmember Dickey. Town Attorney Andrew McGuire, Deputy Town Manager Julie Ghetti and Town Clerk Bev Bender were also present.

Councilmember Hansen and Councilmember Contino were absent. Special Note: Councilmember McMahan died earlier in the week.

- **MAYOR'S REPORT**

Mayor Schlum commented on the fact that Councilmember Hansen was absent due to a dental procedure done earlier in the day; Councilmember Contino was absent due to the graduation of his son from the Sheriff's academy; and that Councilmember McMahan had died this past week. He stated that Councilmember McMahan would truly be missed as he was a great friend who did a great job for the community; he was cared for very deeply. Mayor Schlum announced that he had spoken with Councilmember McMahan's sister who stated that they were making arrangements to get their family to Arizona and that a memorial service would be held on April 23, 2009, at 4:00 p.m. in Christ's Church.

- **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

- (i) Presentation by Parks and Recreation Director Mark Mayer, introducing a sculpture titled, "Blue Spire" proposed to be purchased by the Public Art Committee, and a steel sculpture titled, "Red Lady in Steel", being proposed as an addition to the Public Art Committee's prospective catalogue list. Parks and Recreation Director Mark Mayer discussed two art sculptures; the "Blue Spire" sculpture, which was being proposed to be purchased by the Public Art Committee and would be brought back to at a future meeting for the Council's consideration of acceptance and placement of the piece in the Community Center's lobby. The sculpture "Red Lady in Steel" was being proposed for inclusion in the Public Art manual as a possible art piece and might not be brought forward in the future. He noted that the Community Center Advisory Commission was in support of the recommendation to accept the "Blue Spire" sculpture and its placement.

Vice Mayor Archambault asked if the Community Center Advisory Commission was aware that if too many pieces were placed in the lobby it could hinder traffic flow or use of the Community Center lobby area. Mr. Mayer stated that staff and the commission were cognizant of that; that the art piece locations were contained in the Public Art Master Plan and this was one of those locations; this piece would replace one of the ficus trees in the corner.

Councilmember Leger asked Mr. Mayer to discuss how this piece, "Blue Spire", would be funded. Mr. Mayer stated that the Public Art Committee would be proposing that the funds come from the 1% Art Fund, which had been used a couple of times to pay for art. He commented that this fund was separate from the General Fund and was funded specifically for this purpose.

- (ii) Recognition of Service - Parks and Recreation Commissioners: Tom Barberic, Naomi Bryant, and Ernest Cofrances; and McDowell Mountain Preservation Commissioners: Wendell Oliphant and Wayne Tall.

Mayor Schlum presented plaques to the two former commissioners who were present: Naomi Bryant and Wendell Oliphant. He expressed the Town's appreciation to those individuals who had served the Town and recognized individuals not present, Mr. Tom Barberic and he also expressed the Town's appreciation to the families of Ernest Cofrances and Wayne Tall who had passed away last year. He indicated that their plaques would be passed along to Mr. Barberic and the families' of Mr. Cofrances and Mr. Tall.

- (iii) Snake Safety Presentation by Fire Chief Scott LaGreca.

Fire Chief LaGreca stated that this snake safety was addressed annually and urged citizens to continue to be cautious and remain alert for the potential presence of snakes by illuminating walkways and keeping walkways clear of vegetation; blocking access points to enclosed yards; installing gates firmly against the ground; and keeping the home and garage doors closed. He noted that snake calls were down due to continued educational efforts, which had also resulted in

less cost to the Town. He pointed out calls should be made to 911 if someone was bitten for transportation to the hospital; however, a call should be made to 480- 945-6311 (the non-emergency number) if a snake was in the home, garage, or blocking access; was an immediate life threat to people or pets; or if it was in a fenced yard and could not get out. He asked that the public not call the Fire Department if the snake was non-venomous; not a threat; was in the street or crossing a property; if the sighting was in the evening as it would likely be gone by morning or if the individual had lost sight of the snake as there was a good chance the snake had moved on. He summarized that the Fire Department was there if the public needed them.

- **CALL TO THE PUBLIC**

David Caribardi, Fountain Hills, AZ: Mr. Caribardi requested that the Council consider amending the Town's regulations regarding Rule 504 "hillside disturbance". He requested the creation of an avenue for a large lot owner who was only splitting his lot in half and that conformed to all the lot split requirements to seek an exception to the subdivision disturbance rules that this lot split action placed him under and grant both new lots the standard 4 times disturbance allowance. He continued that this suggested process should include P&Z and Council review and approval of each exception request to ensure that neighborhood consistency was maintained. He stated that no such methodology currently existed and that he felt that rule 504 was overly punitive as currently applied to all situations without exception. He noted that this rule stopped the Town from receiving the added income from dual development fees and the extra tax base addition for two possibly multi-million dollar properties. He requested the opportunity to state his case to the proper authorities in seeking relief from rule 504.

Councilmember Dickey reported that she had attended the State of the City address by Mayor Phil Gordon (City of Phoenix). She noted that he was aiming to make Phoenix the greenest city in the nation and commented that some of the things that they were looking at were the same things that Fountain Hills had discussed (i.e. solar power, reusing water, LED lights, promoting community gardens). She noted that those projects were in varying stages of "shovel ready", which was a key in qualifying for and being eligible for stimulus money. She stated that the Arizona Republic had reported this was a chance for the Phoenix region, because the effort must be valley wide, a model and a leader in the sustainable strategies that cities around the world would have to consider. She indicated that Mayor Gordon was going to DC to look into securing funding for Phoenix but that he did make the point of mentioning that this was a good thing for all of the cities when all of the areas are thriving. She stated that she had attended representing the Town and agency.

Mayor Schlum mentioned that he too had gone to DC, under a scholarship, for a crisis management work-shop. He said that the National League of Cities and Towns was conducting their Congressional Cities' Conference and he had been able to participate in that additional training and had met with the State's senators and congressmen.

CONSENT AGENDA

AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM MARCH 5, 2009.

AGENDA ITEM #2 - CONSIDERATION OF APPROVING A CONSTRUCTION SERVICES AGREEMENT WITH PERFORMANCE PAVING AND SEALING IN THE AMOUNT OF \$19,695.04 FOR PARKING IMPROVEMENTS AT THE TOWN OF FOUNTAIN HILLS' DESERT BOTANICAL GARDEN.

Councilmember Leger **MOVED** to approve the Consent Agenda items as listed (Items 1 & 2) and Councilmember Dickey **SECONDED** the motion. A roll call vote was taken with the following results:

Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Leger	Aye
Vice Mayor Archambault	Aye

The motion **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

REGULAR AGENDA

AGENDA ITEM #3 – CONSIDERATION OF RESOLUTION 2009-08, ACCEPTING A FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), DEPARTMENT OF HOMELAND SECURITY (DHS) GRANT, IN THE AMOUNT OF \$35,000 FOR FISCAL YEAR 2008 ASSISTANCE TO FIREFIGHTER, FOR THE PURCHASE OF SEVEN (7) NEW MOBILE RADIOS.

Fire Chief LaGreca addressed the Council noting that this was the second year that they had been successful in receiving FEMA grants from the Firefighters' Assistance Fund, and that this was the second phase in a four phase grant process whereby they would try to upgrade their system including the EOC this year and potentially moving towards that automatic aid system in a year or two. He discussed the advantages of these new radios and the role they would play in expanding communication capabilities for Fountain Hills with surrounding and adjacent communities, which would lead toward future seamless communication (for automatic aid). He pointed out that over the last year and a half they had brought in approximately \$85,000 in grants with only a 10% match and had also brought in approximately \$20,000 for extrication equipment without a match required by the Town.

In respond to a question from Vice Mayor Archambault, Fire Chief LaGreca stated that the radios would provide for better communication and interoperability with the Sheriff's office.

Councilmember Leger **MOVED** to approve Resolution 2009-08, accepting the FEMA/DHS grant and using proceeds to purchase seven 700/800 megahertz radios from Motorola and Vice Mayor Archambault **SECONDED** the motion.

Town Clerk Bev Bender advised that there were no citizens wishing to speak on this agenda item.

The motion **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

Town Attorney McGuire advised that the purchase agreement was a separate item; therefore, a separate motion should be made.

AGENDA ITEM #4 – CONSIDERATION OF A PURCHASE AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS AND MOTOROLA, INC., FOR THE PURCHASE OF SEVEN (7) 700/800 MEGAHERTZ RADIOS, NOT TO EXCEED \$35,000.

Councilmember Leger **MOVED** to approve the purchase agreement between the Town of Fountain Hills and Motorola, Inc. for the purchase of seven (700/800 megahertz) radios not to exceed \$35,000 and Vice Mayor Archambault **SECONDED** the motion.

Town Clerk Bev Bender advised that there were no citizens wishing to speak on this agenda item.

The motion **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

AGENDA ITEM #5 – CONSIDERATION OF A SERVICES AGREEMENT WITH 3D/INTERNATIONAL, INC., IN THE AMOUNT NOT TO EXCEED \$207,505.69, FOR THE DIRT ALLEY PROJECT, PHASE 1.

Public Works Director Tom Ward addressed the Council relative to this item stating that this item had been discussed at a recent work-shop. He recognized that the project was well over the budgeted amount (\$64,000). For the public's edification Mr. Ward reviewed where the overages occurred. He stated the big ticket items were the driveways connections (\$61,466); quality control and testing, temporary fencing, material export, clear and grubbing and mobilization (\$36,863); and the additional grading, excavation and erosion control (\$30,182). He noted there was an \$11,000 contingency fund (5%). He reviewed the area through the use of a PowerPoint presentation. Mr. Ward stated that staff was comfortable with the alley paving and that this project was in compliance with an IGA regarding PM-10 measures that had been entered into between the Town and MAG. He stated that it was staff's goal to have this project completed by June 30, 2009. He pointed out there had been opportunities for three Fountain Hills' contractors to bid on this work as staff had requested that 3D/I contact the local contractors to keep this work local. He confirmed that there would be a Fountain Hills' contractor completing the work (Performance Paving).

Town Clerk Bev Bender advised that there were no citizens wishing to speak on this agenda item.

Councilmember Dickey **MOVED** to approve the contract with 3D/International, Inc. to construct the Dirt Alley Project, Phase 1, not to exceed \$207,505.69 and Vice Mayor Archambault **SECONDED** the motion.

Vice Mayor Archambault stated he was sensitive that there was not a lot of off-parking on Colony Drive and he asked if there was parking on the business's lots. Mr. Ward responded there was parking but that it may not be sufficient parking due to the fact standards were now different. He stated that, as they moved through the project and spoke to the various businesses, staff saw that there might not be sufficient parking but noted that the parking was flexible in that parking spaces of the adjacent businesses not open at night could then be utilized by other businesses (i.e. restaurants). He stated that he saw shared parking and on street parking and due to the fact that the Town was taking care of these driveways he felt it would encourage people to access the rear parking area if they could not find parking elsewhere. He noted that staff would prefer posting no parking in the alley as they felt it was a fire issue as well as it created difficult access to the alley if parking was allowed. Vice Mayor Archambault stated that he did not take issue with the not parking but was curious if they had looked at taking the cars out of the alley and into the businesses' area. He stated that if they could ever move forward with removal of the Saguaro Boulevard frontage road that would increase the businesses' parking lot and better ingress and egress to the area and was encouraged that that might happen at some point.

In response to Vice Mayor Archambault question as to if the businesses were required to provide enclosures for their dumpsters, Mr. Ward stated that some had available space and some did not. He acknowledged that the project plans called for angled slots, that several meetings had been held with the businesses, and that the Building Department staff would assist those businesses to find a spot. Vice Mayor Archambault expressed his appreciation for staff working with those businesses to meet not only the PM-10 requirements but also to be as business friendly as possible.

Councilmember Leger also expressed his appreciation to staff's efforts on this project. He pointed out that at the recent work-study this item had been presented to the full Council. He agreed that this would certainly enhance the alley aesthetics; however, he felt it was important for the public's benefit that Mr. Ward discuss the fact that the PM-10 measures for this project were an unfunded mandate required of the Town to complete. He asked Mr. Ward to discuss the other benefits of the project and how the paving of the alley would bring the Town in line with those requirements.

Mr. Ward responded that an intergovernmental agreement had been signed with MAG stating that the Town would pave all the alleys in Fountain Hills; that it was a five year project of which this was the first project of Phase 1; that there was a 5% plan that MAG had developed in which cities and towns had signed and agreed to decrease air particulates; and this plan was to continue each year until the State's air became cleaner. He noted there was a concern by the State of Arizona that federal funding could discontinue if the air were not improved, and that if indeed the Town hoped to obtain federal stimulus funding, it would seem that we should be fulfilling the intergovernmental agreement with MAG. He further commented on the fact that it built the case that Fountain Hills was doing what they said they would in fulfilling that agreement. Councilmember Leger thanked

Mr. Ward and stated he felt it was important for the public to understand that while this was an aesthetic improvement, the Town was mandated to move in this direction to mitigate dust.

Mayor Schlum thanked Mr. Ward for explaining the significant increase in the cost of this project for the second time. He noted that this alley had been in place prior to the Town's incorporation and that the removal portion of this project had unfortunately added to the project's cost, would bring value to the area, be more business friendly and did meet the Town's commitments with MAG. He stated that although this was not an easy expenditure it was necessary. He stated that he appreciated staff's hard work and the fact that Fountain Hills' contractors would be busy.

The motion **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

AGENDA ITEM #6 – CONSIDERATION AND POSSIBLE DIRECTION FOR NEGOTIATIONS RELATING TO PROPOSED AGREEMENT WITH RESPECT TO AN ENTERTAINMENT VENUE.

Vice Mayor Archambault **MOVED** to move forward with giving direction to the Mayor, Town Attorney, and Town Manager as discussed in Executive Session and Councilmember Dickey **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

AGENDA ITEM #7 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER. ITEMS LISTED BELOW ARE RELATED ONLY TO THE PROPRIETY OF (i) PLACING SUCH ITEMS ON A FUTURE AGENDA FOR ACTION OR (ii) OR DIRECTING STAFF TO CONDUCT FURTHER RESEARCH AND REPORT BACK TO THE COUNCIL:

A. None.

AGENDA ITEM #8 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER

Deputy Town Manager Julie Ghatti reported that the budget committee and Mr. Davis had participated in meetings this past week with the Directors regarding the detail of next year's budget and that the Fire Services Committee had also met to start the negotiations and review of the Rural Metro contract.

Mayor Schlum requested that staff follow-up with Mr. Caribardi on his request.

AGENDA ITEM #9 – ADJOURNMENT

Mayor Schlum restated that the memorial service for Councilmember McMahan would take place on Thursday, April 23, 2009, at 4:00 p.m. and would be held at Christ's Church at the request of the family to ensure that they could all be present to celebrate his life.

Councilmember Leger **MOVED** that the Council adjourn the meeting at 7:22 p.m. and Councilmember Dickey **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by a vote of those present (4-0).

TOWN OF FOUNTAIN HILLS

By _____
Mayor Jay T. Schlum

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Executive and Regular Sessions held by the Town Council of Fountain Hills in the Council Chambers on the 19th day of March 2009. I further certify that the meeting was duly called and that a quorum was present.

DATED this 2nd day of April 2009.

Bevelyn J. Bender, Town Clerk